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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,221	03/29/2001	John T. Orchard	15685P081	6069

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EXAMINER

LAU, TUNG S

ART UNIT	PAPER NUMBER
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2863

DATE MAILED: 09/27/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,221

Applicant(s)

ORCHARD, JOHN T.

Examiner

Tung S Lau

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 3-9, 12, 15, 18, 19-21, 23, 25-27, 30, 31, 33 are rejected under 35 U.S.C. 102(e) as being anticipated by DeVito et al. (U.S. Patent 6,242,743).

DeVito discloses a handheld computing device, storage, a method, medium to detect motion using sensors in one or more of six fields of motion (col. 3, lines 50-57, fig. 1-10, col. 33-34, lines 22-11), a motion control agent to generate control signal (col. 13, lines 35-67, col.16, lines 15-39), execution instruction and modification for the device (col. 3-4, lines 50-16), using threshold determination (col. 15-16, lines 56-15) rotation motion of x, y, z axis, one or more of an x, y, z axis response motion (col. 6. lines 29-59, fig. 12), motion control agent identifies a operating state to determine what control signal to issue, control of the display for computer (col. 3-4, lines 50-16, Fig. 1-25).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 10,11, 13, 14, 16, 17, 22, 24, 28, 29 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeVito et al. (U.S. Patent 6,242,743) in view of Briffe et al. (U.S. Patent 6,112,141) and Simske et al. (U.S. Patent 6,385,351).

Devito disclose a method including the subject matter discussed above except the use of highlighted active region and icon representation, scroll display content, zoom displayed, button enable, wireless device to detect motion, Briffe discloses the use of display with active highlight region (col. 17-18, lines 53-5), scroll display content (col. 14, lines 15-21), use of enable button function (col. 6, lines 37-52), and Simske discloses use a icon representation and zoom function (col. 5, lines 25-55), to be able to have a good visual representation of the status of the system and to update the user of the system status at anytime (Abstract).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Devito to have the use of highlighted active region

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and icon representation, scroll display content, zoom displayed, button enable taught by Briffe and Simske in order to have a good visual representation of the status of the system and to update the user of the system status at anytime for better system control.

As using wireless device to detect motion, It would have been inherent to one of ordinary skill in the art at the time the invention was made to modify DeVito to have the use of wireless device to detect motion in order to have no restriction on the movement while using the device for remote communication.

b. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of DeVito as applied to claim 1, and further in view of Berger et al. (U.S. Patent 4,214,485) and Shore (U.S. Patent 5,128,655).

The DeVito combination disclose a method including the subject matter discussed above except the use of accelerometer, mercury switch, shock detector and gyroscope. Berger discloses a computer device to detect motion and use accelerometer, shock detector, gyroscope and the like (col. 1, lines 1-65, col. 7, lines 13-25, col. 9, lines 22-40, to be able to determine dynamic balance of an object (col. 1, lines 45-46), Shore discloses the use of a mercury switch to detect motion of an object (col. 3, lines 20-64), in order to detect bending angle with flexibility and reliability (col. 1, lines 30-37).

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Devito to have the use of accelerometer, mercury switch, shock detector and gyroscope as taught by Berger and Shore in order to be able to determine dynamic balance of an object with flexibility and reliability.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung S Lau whose telephone number is 703-305-3309. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John S Hilten can be reached on 703-308-0719. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-5841 for regular communications and 703-308-5841 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

TL

9/19/2002



**JOHN S. HILTEN
SUPERVISORY PATENT EXAMINER
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